

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: David Quigley, AICP, Planning and Zoning Manager/(954) 797-1103

PREPARED BY: David Abramson, Deputy Planning and Zoning Manager

SUBJECT: Special Permit

AFFECTED DISTRICT: 3

ITEM REQUEST: Petitioner Requesting a Tabling

TITLE OF AGENDA ITEM: SE 12-1-09, Andy's Lounge & Liquors, 12450 W. SR 84 (B-2(County))

EXECUTIVE SUMMARY: The petitioner is requesting a special use permit to allow Andy's Lounge & Liquors to sell alcoholic beverages anytime of the day. This business is located on the southwest corner of State Road 84 and Flamingo Road.

KEY POINTS:

- **The Town's regulations for the sales of alcoholic beverages were originally adopted in 1964**
- **The sale of alcoholic beverages is prohibited on Sunday between the hours of 3:00 a.m. and 12:00 noon, or on any other day of the week between the hours of 2:00 a.m. and 7:00 a.m.**
- **The subject property was annexed into the Town in 1998**
- **The subject property only has direct vehicular access off SR 84**
- **Residential use abuts the southern boundary line of subject property**
- **No public attendees were present at public participation meetings**
- **Special use permits apply to owner of the land (a future purchaser would have to make separate application for special use permit)**

CONCURRENCES: At the May 12, 2010 Planning and Zoning Board meeting, Mr. DeArmas made a motion, seconded by Vice-Chair Busey, to approve. In a roll call vote, the vote was as follows: Chair Turin – yes; Vice-Chair Busey – yes; Mr. DeArmas – yes; Mr. Farkas – yes; Mr. Jacob – absent. **(Motion carried 4-0)**

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S): Other - Staff finds the application complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Planning Report

Application: SE 12-1-09/10-43/Andy's Lounge & Liquors
Original Report Date: 05/03/10

Revision(s): 05/19/10

TOWN OF DAVIE
Planning & Zoning Division
Staff Report and Recommendation

Applicant Information

Owner

Name: Andytown, Inc.
Address: 1155 Hillsboro Mile, #106
City: Hillsboro Beach, Florida 33062
Phone: (954) 598-4125

Petitioner

Name: Doumar, Allsworth, Laystrom, Voigt, Wachs, Mac Iver & Adair, LLP
Address: 1177 Southeast Third Avenue
City: Fort Lauderdale, Florida 33310
Phone: (954) 762-3400

Background Information

Date of Notification: May 5, 2010 **N u m b e r o f**
Notifications: 219

Application Request: Special Permit

Address: 12450 West State Road 84

Location: Generally located on the southwest corner of State Road 84 and Flamingo Road

Future Land Use

Plan Map Designation: Commercial

Zoning: B-2, General Commercial Business District (County)

Existing Use: Bar/lounge

Parcel Size: Approximately 0.88 acres (38,539 square feet)

Surrounding Properties:

	Land Use Designation	Zoning District	Current Use
North	Transportation	T, Transportation	Highway
South	Residential 10 DU/Acre	R-1T(County)	Mobile Home Community
East	Residential 5 DU/Acre	AG, Agricultural District	County Roadway
West	Residential 10 DU/Acre	R-1T (County)	Mobile Home Community

Zoning History

Related Zoning History: Records indicate that the existing Future Land Use Plan Map designation and Zoning classification were in place at the time of annexation.

Previous requests on same property: n/a

Concurrent requests on same property: n/a

Applicable Codes and Ordinances

The effective Code of Ordinances governing this project is the Town of Davie Land Development Code.

Town of Davie, Code of Ordinances, Chapter 12, §12-308: Review for special permits.

Town of Davie, Code of Ordinances, Chapter 12, §12-35: Special uses are those uses which have some special impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. A request for such use shall take the form of an application for special permit, processed in accordance with the regulations contained in Article X.

Town of Davie, Code of Ordinances, Chapter 3, §3-2: No vendor licensee for consumption on the premises, except as provided in (c) hereof, shall sell or offer for sale, deliver or service or permit to be consumed upon the premises of such vendor, any beer, wines or alcoholic beverages of any kind, regardless of alcoholic content, **on any Sunday between the hours of 3:00 a.m. and 12:00 noon, or on any other day of the week between the hours of 2:00 a.m. and 7:00 a.m.**

Comprehensive Plan Considerations

Planning Area:

The subject site falls within Planning Area 3. Planning Area 3 is bound by I-595 on the north side, I-75 on the west side, SW14 Street on the south side, and Flamingo Road on the east side. The planning area consists of residential uses developed at a density of 3 to 10 dwellings per acre, including the Shenandoah development, which occupies the western half of the planning area. Commercial development lines the S.R. 84 corridor.

Broward County Land Use Plan:

The subject site falls within Flexibility Zone 113.

Applicable Goals, Objectives & Policies:

1. Future Land Use Plan, Objective 19: Land Use Compatibility and Community Appearance, Policy 19-1: Lands designated for non-residential use shall be located in a manner, which facilitates development, but does not adversely impact existing and designated residential areas.

1. Future Land Use Plan, Objective 19: Land Use Compatibility and Community Appearance, Policy 19-3: Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

Public Participation

The public participation process provides the ability for citizens of the Town of Davie to actively participate in the Town's development procedures. The petitioner conducted meetings with the public at the Town's Community Room on March 4 and 11, 2010. Attached is the petitioner's Citizen Participation Report.

Staff Analysis

Andy's Lounge & Liquors is considered a "bar, lounge, tavern or pub" use and is allowed within the current zoning designation per County code, Section 39-295 Permitted Uses.

This special permit request was submitted after a notice of code violation (case # 09-00001136) was issued on September 4, 2009 by the Town's Code Compliance Division. The Andy's Lounge & Liquors cited for violating Chapter 3, Section 3-2(a) which limits the hours of sale for alcoholic beverages. The provisions of Section 3-2(a) originally were adopted in 1964 and in effect when the subject site was annexed into the Town in 1998. This request is to allow Andy's Lounge & Liquors the sale of alcoholic beverages anytime of the day.

The following information is staff's analysis (*italic font*) based on the criteria established in the Town of Davie Land Development Code, Section 12-308 (A)(1)(a) for special permits applications based upon its consideration of, where applicable, whether or not the proposed special permit:

- (i) Is contrary to the adopted Comprehensive Plan, as amended, or any element or portion thereof;

This request is not contrary to the comprehensive plan, because it does not address alcoholic beverages.

- (ii) Will create an unrelated and incompatible adjacent use;

Although the use has existed for over 30 years and is in compliance with zoning requirements concerning alcoholic beverage sales (other than operation hours), staff generally does not consider all day liquor lounges to be compatible when adjacent to a residential use. The proposed increase in operating hours has the potential to exacerbate the situation.

- (iii) Will adversely affect living conditions in the neighborhood or the Town;

Same as above in (ii).

- (iv) Will create or excessively increase automobile and vehicular traffic congestion or otherwise affect public safety;

Although proposed hours of alcoholic sales will almost certainly generate traffic, the location next to State Road 84 and Flamingo will ensure that traffic is not within local neighborhoods.

- (v) Will adversely affect surrounding property values;

Due to potential for incompatibility, the proposed hours could have a negative effect.

- (vi) Will be a deterrent to the improvement or development of other property in accord with existing regulations;

Due to potential for incompatibility, the extended hours could have a negative effect on the development or re-development of the adjacent residential property.

- (vii) Will constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public.

Although the use exists, other lounges within the Town adhere to the code provision for the hours of sale for alcoholic beverages.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board for further consideration.

Planning and Zoning Board Recommendation

At the May 12, 2010 Planning and Zoning Board meeting, Mr. DeArmas made a motion, seconded by Vice-Chair Busey, to approve. In a roll call vote, the vote was as follows: Chair Turin – yes; Vice-Chair Busey – yes; Mr. DeArmas – yes; Mr. Farkas – yes; Mr. Jacob – absent. **(Motion carried 4-0)**

Town Council Motion

Exhibits

1. Letter of Intent
 2. Justification Letter
 3. 1,000' Mail-out Radius Map
 4. 1,000' Mail-out
 5. Public Participation Notice
 6. Public Participation Sign-in Sheet, if applicable
 7. Public Participation Summaries
 8. Land Use Map
 9. Zoning Map
-

Prepared by: _____
Reviewed by: _____

File Location:

X:\0_Dev Review\Development Applications\Applications\SE_Special Permit\SE_09\SE 12-1-09 Andy's Lounge & Liquors

LAW OFFICES
**DOUMAR, ALLSWORTH, LAYSTROM,
VOIGT, WACHS, MAC IVER & ADAIR, LLP**

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JEFFREY S. WACHS, P.A.†

OF COUNSEL
WILLIAM S. CROSS, P.A.

December 10, 2009

Dave Quigley
Planning & Zoning Manager
Town of Davie
6501 Orange Drive
Davie, FL 33314

Re: Andy's Liquor & Lounge
12450 State Road 84

Dear Mr. Quigley:

This firm represents Andy's Liquor & Lounge ("Andy's") with respect to its Special Use Permit to continue its hours of operation from 1 p.m. until 8:00 a.m. This letter and the attached answers to the criteria for approval of Special Use Permit will provide justification for Andy's Special Use Permit Application.

Andy's has served residents of the Town of Davie since 1979 in its present location at 12450 State Road 84 but has historical roots that date back to the 1940's with the creation of the small town of Andytown and its restaurant/bar. At the time, the Andytown restaurant/bar was owned and operated by the family of the present owner of Andy's, Sophia Tsanos. After several decades of existence, Andytown and its restaurant/bar was ordered closed and demolished by the Florida Department of Transportation in order to construct Highway I-75. Subsequently, the Tsanos family transplanted the Andytown restaurant/bar to its present location on State Road 84, then located in unincorporated Broward County and renamed the bar, Andy's Liquor and Lounge. Andy's was thereafter annexed into the Town of Davie through the Town's annexation agreement with Uniprop Manufactured Housing Communities Income Fund dated May 6, 1998.

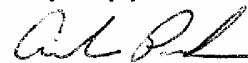
Although Andy's was transplanted from its own town to unincorporated Broward County and then to the Town of Davie, Andy's has maintained the distinct culture of Andytown and has maintained its original operational hours. Andy's has operated from 1 p.m. to 8 a.m. since its inception as Andytown's restaurant/bar in order to cater to its neighborhood clientele as well as individuals from across Broward County. The business has successfully operated for several decades and provides a familiar

environment for many adjacent residents that serve as Andy's main clientele. The facility has never been a source of municipal violations and Andy's has been maintained by the Tsanos family in accordance with all other Town of Davie's codes.

The approval of this application will permit Andy's to continue its operation in the same manner that it has existed since the 1940's. The approval of this application will not create a hardship to the neighboring community nor will it create a special privilege to the Tsanos family. Instead, the approval of this application will permit Andy's clientele, the vast amount of which live in neighboring properties within the Town, to continue to enjoy Andy's in the manner that they have done so for over three decades. The approval of this application will not grant a special privilege to the Tsanos family because Andy's has historically operated under its hours of operation since its original inception as the Andytown restaurant/bar. After being forced to relocate due to the creation of Highway I-75, Andy's continued its traditional operational hours for three decades prior to being asked to stop by the Town of Davie. By granting this application, the Town will permit Andy's to maintain its longstanding traditions that relate back to its Andytown roots. It must also be noted that although Andy's was incorporated into the Town through the 1998 annexation agreement, Andy's was not involved with the negotiation of the agreement and was not afforded the opportunity to include its historical operation hours within the terms of the agreement. As such, it would be equitable for the Town to permit Andy's to continue its operation in the manner that it has operated since the 1940's.

Thank you in advance for your consideration of this application. Should you have any questions, please feel free to contact me.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Andre S. Parke', written in a cursive style.

Andre S. Parke
For the Firm

JUSTIFICATION LETTER CRITERIA

1. **Is the application contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;**

The proposed application concurs with all portions of the comprehensive plan as adopted or as amended. This application seeks the approval of the existing hours of operation for Andy's that have been in effect since the 1940's. Due to the fact that the property will remain in the exact state of development that exists today and the existing approved use of the property will continue without modification, the application will not be contrary to the comprehensive plan.

2. **Will create an unrelated and incompatible adjacent use;**

The proposed application will not affect the existing approved use of the property. Instead, the facility will continue to be utilized as a bar/lounge. No portion of the property will be altered as a result of this application.

3. **Will adversely affect living conditions in the neighborhood or the town;**

The proposed application seeks the approval of the hours of operation that have been in effect since the 1940's. The facility was relocated to its present location in 1979 and has continued under the existing hours of operation unabated since this time. The facility has never been a source of complaint by members of the community nor has the facility been a source of municipal violations. Instead, the facility has catered to residents of the adjacent community since its inception.

4. **Will create or excessively increase automobile and vehicular traffic congestion or otherwise affect public safety;**

The proposed application will not increase automobile and vehicular traffic congestion or impact public safety because the application merely approves the hours of operation that has existed at the facility since the 1940's and at the present location since 1979. The facility has been operated as a family business since its inception and has catered to the same clientele from the adjacent neighborhood since that time.

5. **Will adversely affect surrounding property values;**

The proposed application seeks the approval of the hours of operation that have been in effect since the 1940's. The facility was relocated to its present location in 1979 and has continued under the existing hours of operation unabated since this time. The facility has never been a source of complaint by members of the community nor has the facility been a source of municipal



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690 SW 124 TER	DAVIE	FL	33325
700 FLAMINGO RD	DAVIE	FL	33325



TOWN OF DAVIE
NOTICE OF PUBLIC HEARING
ON SPECIAL PERMIT APPLICATION

Public hearings will be held at the Davie Town Hall Council Chambers, 6591 Orange Drive, Davie, Florida on the dates hereinafter specified. These items will be discussed at 7:00 p.m. or as soon thereafter as practicable. Comments of any interested party relative to this matter may be submitted in writing and/or presented at the hearings.

PETITIONER: Doumar, Allsworth, Laystrom, Voigt, Wachs, Mac Iver & Adair, LLP

OWNER: Andytown, Inc.

SUBJECT PROPERTY: 12450 West State Road 84 (folio: 50-40-11-06-0020)

PLANNING & ZONING BOARD HEARING: May 12, 2010

TOWN COUNCIL HEARING: June 2, 2010

THESE MATTERS SHOULD

BE REFERRED TO AS: SE 12-1-09, Andy's Lounge & Liquors

The petitioner is requesting a special permit to allow the hours of operation for the sales of alcoholic beverages from 1 p.m. to 8 a.m.

FOR FURTHER INFORMATION, VISIT THE TOWN'S WEBSITE AT WWW.DAVIE-FL.GOV OR CALL DAVID ABRAMSON OF THE PLANNING AND ZONING DIVISION, AT (954) 797-1048.

Any person wishing to appeal any decision made by this Board or Committee with respect to any matter considered at such meeting or hearings will need a record of the proceedings, and for such purposes may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is made

Persons with disabilities requiring accommodations in order to participate should contact the Town Clerk at 797-1023 at least five business days prior to the meeting to request such accommodation. If you are hearing or speech impaired, please contact the Florida Relay Service by using the following numbers: 1-800-955-8770 (voice) or 1-800-955-8771 (TDD).

**This area is reserved for
addressing, any area in white
can be used for your content.**

LAW OFFICES
DOUMAR, ALLSWORTH, LAYSTROM,
VOIGT, WACHS, MAC IVER & ADAIR, LLP

JOHN H. ADAIR, III, P.A.
EMERSON ALLSWORTH, P.A.
E. SCOTT ALLSWORTH, P.A.
MARK E. ALLSWORTH, P.A.
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OF COUNSEL
WILLIAM S. CROSS, P.A.

March 15, 2010

Town of Davie
Mr. David Abramson, Manager
Planning & Zoning Department
6591 Orange Drive
Davie, FL 33314

VIA EMAIL ONLY

Re: Andytown, Inc. d/b/a/ Andy's Lounge & Liquors
Public Participation Meeting

Dear Mr. Abramson:

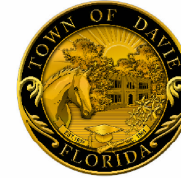
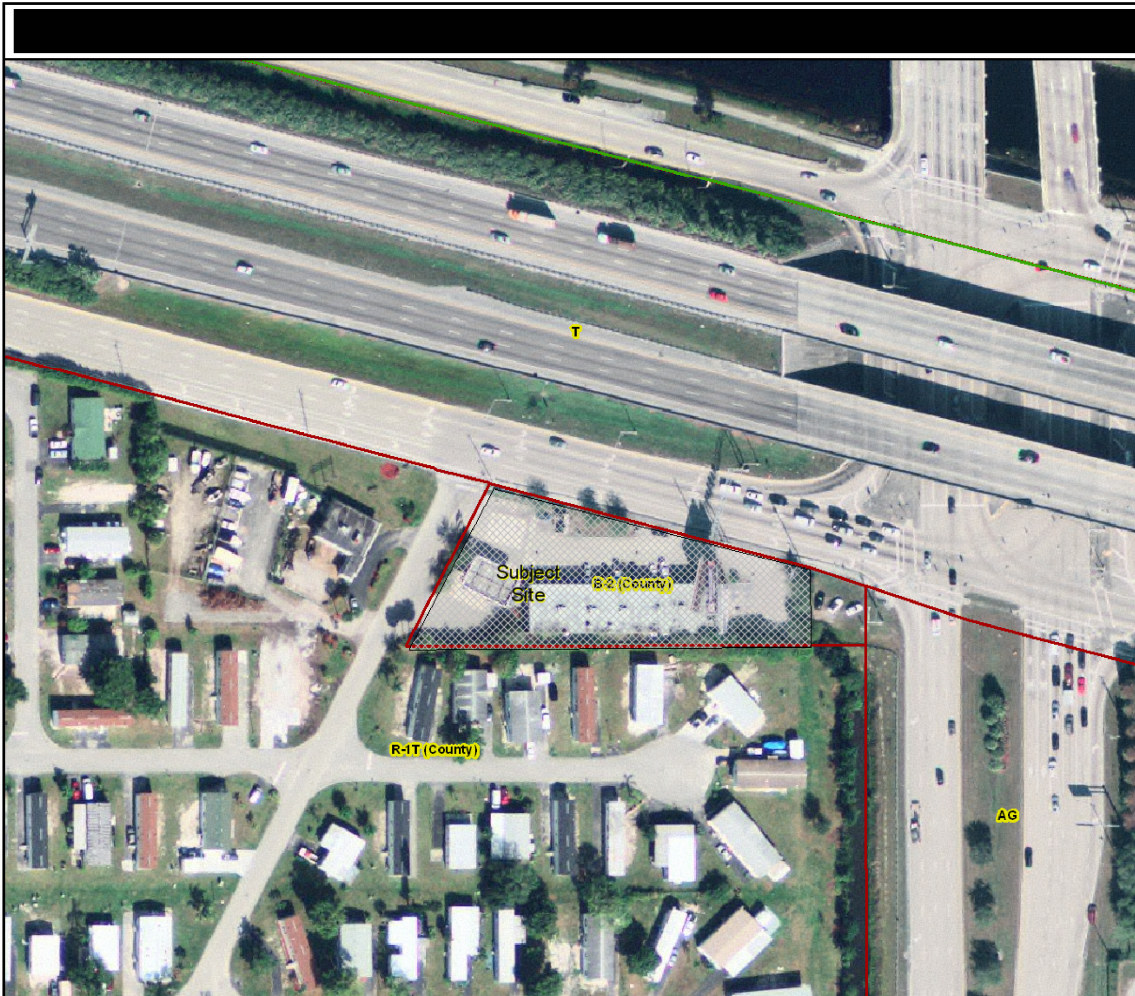
Please allow this letter to serve as confirmation that Andytown, Inc. has held the two scheduled meetings, March 4 and March 11, 2010 as required by the Town of Davie in regard to Andytown Inc.'s Special Use Permit Application.

Please be advised that none of the property owners that were notified by the mailings attended this meeting.

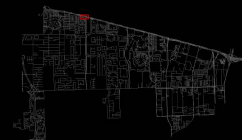
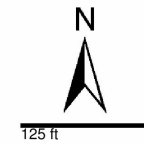
Should you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,


m.s. Andre S. Parke



- Town Boundary
- Zoning



GIS MAP DISCLAIMER

The information on this map is for graphical purposes only. It does not represent a legal survey and has not been prepared or is it suitable for legal, engineering, or surveying purposes. While every effort has been made to ensure that these data are accurate and reliable the Town of Davie cannot assume liability for any damages caused by any errors or omissions in the data.

